

EXHIBIT “B”

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

TINA LINDQUIST,

Plaintiff,

vs.

HEIM L.P.,

Defendant.

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NO. 04-249E

The discovery deposition of ANTHONY ROBERT
MASE, JR., taken in the above-entitled cause,
before Kyla Elliott, a notary public of Cook
County, Illinois, on the 27th day of July, 2005, at
33 North LaSalle Street, Chicago, Illinois,
pursuant to Notice.

Reported by: Kyla Elliott, CSR, RPR

License No.: 084-004264

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I N D E X

WITNESS

EXAMINATION

ANTHONY ROBERT MASE, JR.

By Mr. Hartman	4
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E X H I B I T S

NUMBER

MARKED FOR ID

Deposition Exhibit

Nos. 1 & 2	4
No. 3	131
No. 4	141
No. 5	193

1 (Whereupon, Deposition
2 Exhibit Nos. 1-2 were marked for
3 identification.)

4 ANTHONY ROBERT MASE, JR.,
5 having been first duly sworn, was examined and
6 testified as follows:

7 EXAMINATION

8 BY MR. HARTMAN:

9 Q. For the record would you please state
10 your full name?

11 A. Anthony Robert Mase, Jr.

12 Q. Mr. Mase, would you give us your current
13 address, please?

14 A. Tough question to begin with.

15 Q. I'm going to ask you difficult ones.

16 A. 8616 Butterfield Lane, that's Orland Park,
17 Illinois, 60462.

18 Q. By whom are you employed?

19 A. Heim Corporation.

20 Q. Is Heim Corporation the official name of
21 the company that you're working for?

22 A. I believe that's correct.

23 Q. And how long have you worked for the Heim
24 Corporation?

1 A. I've worked for the Heim Corporation since
2 2001, but I had a previous employment with them
3 from 1984 through 1991.

4 Q. What brought you back in '01?

5 A. The company I was working for was in
6 Chapter 11 and I was looking for a new opportunity.

7 Q. And what company was that?

8 A. That was CNB Clear Niagra Bliss.

9 Q. CNB?

10 A. Yes.

11 Q. What kind of company is CNB?

12 A. Primarily a press manufacturer.

13 Q. Clearing --

14 A. Niagra Bliss.

15 Q. Did you work for Clearing Niagra Bliss
16 from 1991 to 2001?

17 A. Say that to me again.

18 Q. Did you work for CNB from 1991 to 2001?

19 A. Yes. Yes.

20 Q. Okay.

21 A. There was one other employment there,
22 Midwest Brake for one year, I want to say it's
23 '91 -- '90 or '91.

24 Q. Mr. Mase, my name is Dallas Hartman, I

1 introduced myself prior to the beginning of this
2 deposition, and I represent Tina Lindquist in a
3 claim that has been brought against the Heim
4 Corporation for injuries Ms. Lindquist sustained
5 while operating at Heim Press. This is a
6 deposition.

7 Have you ever had your deposition taken
8 before?

9 A. Yes.

10 Q. Okay. Approximately how many times?

11 A. Once.

12 Q. And about how long ago?

13 A. One year ago, approximately.

14 Q. What was the purpose -- what was the type
15 of lawsuit for which your deposition was taken?

16 A. I can't remember what it was. It was a --
17 I don't recall the case.

18 Q. Was it an injury case?

19 A. Yes.

20 Q. Do you recall what kind of machine -- was
21 there a machine involved?

22 A. Yes.

23 Q. And do you recall what kind of machine?

24 A. It was a punch press.

1 Q. During the course of this deposition I'll
2 be asking you questions. The court reporter will
3 be taking down my questions and she'll also be
4 taking down and recording your answers to those
5 questions. It is very important during the course
6 of this deposition that you make sure you
7 understand my question and that you gave me a full
8 answer. Do you understand that?

9 A. Yes.

10 Q. And to the extent you cannot give me
11 absolute, exact facts, I would ask and appreciate
12 if you would give me an estimate. Do you
13 understand that instruction?

14 A. Yes.

15 Q. If you give me an estimate please tell me
16 you're estimating?

17 A. Okay.

18 Q. No one wants you to guess, I'm here to
19 find out basically what you know and what you can
20 help to shed some light on this case.

21 You're represented by counsel today?

22 A. Yes.

23 Q. If at any time you feel necessary to speak
24 with counsel please let me know and I'll leave the

1 room or the two of you can leave the room and have
2 a discussion. Do you understand that instruction?

3 A. Yes.

4 Q. Is there anything that would prevent you
5 from testifying truthfully and accurately, any
6 infirmity, any medications, any problem or
7 condition whatsoever?

8 A. No.

9 Q. I'll show you Deposition Exhibit No. 1,
10 which is a Notice of Designated Corporate Official
11 Deposition. Have you had an opportunity to review
12 that?

13 A. Yes.

14 Q. Am I correct today that Heim Corporation
15 has appointed you as the individual to provide
16 testimony with regard to the matters outlined in
17 that notice?

18 A. Yes.

19 Q. Okay. Is there any area that's in the
20 notice that you are not prepared to testify on
21 behalf of Heim today?

22 A. No.

23 Q. Other than direct discussions with your
24 attorney, what have you done to prepare yourself

1 for today's deposition?

2 A. I have read this document that you
3 presented to me here. I have reviewed the sales
4 file. I had looked at some past documents which
5 are the Heim sales files from 1970 through 1980
6 looking for particular information to prepare for
7 this case. And that's about it.

8 Q. Did you have the opportunity to read
9 Ms. Lindquist's deposition?

10 A. No, I did not.

11 Q. Did you have the opportunity to obtain an
12 understanding of how Ms. Lindquist alleges this
13 accident occurred?

14 A. Only from conversation.

15 Q. Other than with your attorney, could
16 you -- other than what your attorney's told you,
17 can you tell me what information you have?

18 A. No.

19 MR. HARTMAN: Do you feel comfortable letting
20 him testify as to what his understanding of how the
21 accident occurred?

22 MR. ROBINSON: Not if it only came from
23 counsel. You can ask him -- you could introduce, I
24 suppose, what you believe happened and ask him if

1 that's his understanding. And I think that would
2 probably be the best way to do it while I still
3 preserve the attorney-client privilege.

4 MR. HARTMAN: That's fine.

5 BY MR. HARTMAN:

6 Q. What was your -- strike that.

7 Let's go back. What's the highest level
8 of education you've obtained?

9 A. Two years of college.

10 Q. And what course or program of education
11 did you have in college?

12 A. It was just general courses, not a
13 specific degree or anything working towards.

14 Q. After your two years of college, did you
15 have any specialized technical training?

16 A. No.

17 Q. Did you -- do you have an engineering
18 background?

19 A. No.

20 Q. In 1984 what was your position with Heim
21 Corp?

22 A. Sales manager.

23 Q. Prior to 1984 by whom were you employed?

24 A. Prior to 1984 I was employed by Clearing,

1 which was a division of US Industries.

2 Q. What did you do?

3 A. I was also sales manager there.

4 Q. And what type of product did you sell?

5 A. It was a -- mechanical power presses and
6 hydraulic.

7 Q. And how long --

8 MR. ROBINSON: I'm sorry, excuse me, and --

9 THE WITNESS: And hydraulic. They were both
10 hydraulic and mechanical.

11 BY MR. HARTMAN:

12 Q. How long did you work for Clearing?

13 A. From 1967 through '81 -- '84 -- no. No.
14 '81, excuse me, '81.

15 Q. And from '81 to '84 how were you employed?

16 A. Alco standard?

17 Q. And what does Alco Standard do?

18 A. At the time Alco standard was a
19 conglomerate, had a lot of acquisitions of
20 companies. I worked for a company named Roselle.

21 Q. Am I correct that Roselle makes mechanical
22 and hydraulic presses as well?

23 A. No.

24 Q. What does Roselle make?

1 A. Mechanical presses.

2 Q. And what did you do with Roselle?

3 A. I was sales manager.

4 Q. Prior to -- prior to your employment with
5 Clearing in 1967, by whom were you employed? Let's
6 go from high school up to Clearing to the best you
7 can.

8 A. I was only employed by the United States
9 Army, '64.

10 Q. Bad time to be in the Army?

11 A. '64 to '67 I was in the military.

12 Q. Did any of your military training or
13 experience carry over to give you -- were you able
14 to use your military training and experience to
15 help you in your sales with Clearing?

16 A. No.

17 Q. So when you went to Clearing it was a
18 whole new world of vocational experience?

19 A. Yes.

20 Q. When you went to Clearing, what did you
21 sell?

22 A. They were mechanical power presses.

23 Q. Before we go any further, let's clarify
24 some terms here, okay, because I've been reading

1 and everybody talks about things. I'm going to
2 give you what I understand and you tell me if I'm
3 correct, and please listen carefully.

4 It's my understanding that the term
5 mechanical power presses encompasses a large group
6 of types of presses, am I correct?

7 A. Correct.

8 Q. Mechanical power presses includes what you
9 would call a punch press?

10 A. Correct.

11 Q. A brake press?

12 A. I distinguish between mechanical power
13 press and a press brake.

14 Q. Okay. Well, tell me what type of
15 mechanical power presses there are?

16 A. There's -- they range in tonnage from one
17 ton to 6,000 ton. We're talking a big field,
18 various types.

19 Q. Sizes?

20 A. Sizes. There are fly-wheel type,
21 back-eared type, gap presses, straight side
22 presses, OBS type presses, there are single crank,
23 double crank, 1.2.4. That pretty much gives you an
24 idea of the --

1 MR. ROBINSON: If I might interrupt just for
2 housekeeping. Would we agree, as we have in the
3 other depositions, that all objections except as to
4 the form are reserved for the time of trial?

5 MR. HARTMAN: Correct.

6 MR. ROBINSON: Thank you.

7 BY MR. HARTMAN:

8 Q. Am I correct that many times the term
9 mechanical power press would also include brake
10 press?

11 MR. ROBINSON: Hold on. I'm going to object to
12 the form of the question. He's already indicated
13 that there's a difference as you know from our
14 prior conversations with the Court and personally
15 ANSI recognizes a distinction between presses and
16 press brakes. They are distinct products that you
17 are continually trying to have this witness say in
18 various forms are the same, and I think that's
19 misleading.

20 MR. HARTMAN: And I understand that. And I'm
21 not trying to mislead you. What I'm -- let me get
22 to the heart of the matter.

23 MR. ROBINSON: And just for the record every
24 witness that we have talked to with Corey

1 Manufacturing also has detailed for Mr. Hartman and
2 the plaintiff the differences -- the significant
3 differences that they have described between power
4 presses and press brakes.

5 MR. HARTMAN: And that has no bearing on this
6 deposition.

7 MR. ROBINSON: It does when you continuously
8 try to equate the two for purposes that I frankly
9 cannot understand.

10 MR. HARTMAN: I'm not trying to equate the two
11 for any purpose other than to find out how Heim
12 looks at it.

13 BY MR. HARTMAN:

14 Q. Are press brakes referred to as opposed
15 to -- strike that.

16 Are press brakes sometimes referred to as
17 mechanical power presses by Heim?

18 A. I wouldn't think so.

19 Q. Okay. So a press brake would not be
20 commonly known as a mechanical power press at Heim?

21 A. Correct.

22 Q. Okay. Do you know in your experience as
23 sales manager in the selling of presses, and I'm
24 using that in a very generic sense, I'm not trying

1 to -- have you had the opportunity to review OSHA
2 standards for mechanical presses?

3 A. Reviewing OSHA standards? You need to
4 help me here.

5 Q. Is Heim aware as to whether or not OSHA
6 discusses the guarding of mechanical presses?

7 MR. ROBINSON: I'll object to the form of the
8 question.

9 THE WITNESS: This is something that we build
10 presses to meet a code or a standard, ANSI, OSHA
11 standards.

12 BY MR. HARTMAN:

13 Q. ANSI and OSHA standards?

14 A. That's correct.

15 Q. Do you know what OSHA standard governs
16 brake presses?

17 MR. ROBINSON: Now you're talking about brake
18 presses, you're using -- I just want make sure.

19 MR. HARTMAN: I know what I'm saying. I want
20 you to take your time, listen to what I'm saying.
21 I will be switching back and forth --

22 THE WITNESS: Okay.

23 MR. HARTMAN: -- when we talk until I get an
24 understanding as to what you understand. And it

1 will not be any means to trick you, I do ask that
2 you listen to my question .

3 MR. ROBINSON: And just for the Court's
4 purposes, I think it's very misleading to ask all
5 of the introductory questions about OSHA
6 regulations, ANSI regulations relating to power
7 presses and just to throw in the reference to a
8 press brake when you get into a specific ANSI or
9 OSHA requirement. I just think that's misleading
10 the way that's being done. I'm not saying it's
11 intentionally so, I'm just saying I think it's
12 misleading. And it does seem to me to be a way
13 that could be used to trip up a witness rather than
14 obtain actual facts that are helpful.

15 MR. HARTMAN: I understand what you're
16 advocating, and my position is to find out what you
17 know. I have to switch back and forth because I
18 have -- in my reading I have a misunderstanding or
19 at least it seems confusing to me.

20 BY MR. HARTMAN:

21 Q. It's my understanding that OSHA when they
22 talk about mechanical presses, mechanical presses,
23 uses it -- that generic term. And when OSHA talks
24 about OSHA talks about mechanical presses they're

1 including in that category what you would call a
2 brake press. Do you agree with that statement?

3 A. I don't know. I truly don't know if I
4 agree with that statement.

5 Q. Okay. Do you know what OSHA regulations
6 govern point of operation protection?

7 MR. ROBINSON: For what? I'll object to the
8 form.

9 MR. HARTMAN: Okay. Okay. That's fine. Look,
10 I'm talking, there's no need to get upset.

11 MR. ROBINSON: By all means please don't take
12 my objection as being upset. You just indicated
13 that -- you asked the witness what OSHA standards
14 govern point of operation --

15 MR. HARTMAN: I'm asking --

16 MR. ROBINSON: -- question mark. And there
17 are I can't imagine how many different types of
18 devices. So please don't take my objection as
19 being upset.

20 BY MR. HARTMAN:

21 Q. Do you have familiarity with the OSHA
22 regulations governing point of operation protection
23 for press brakes?

24 A. No.

1 Q. Okay. Does Heim have familiarity with
2 OSHA's regulations governing press brakes?

3 A. I do not know.

4 Q. Are you familiar with ANSI's standards as
5 it relates to press brakes?

6 A. Can you be more specific? It's a
7 general --

8 Q. Point of operation protection?

9 A. Not point of operation protection.

10 Q. Are you aware of ANSI's standards with
11 regard to the -- what they contend is the
12 manufacturer's responsibility with regard to
13 construction and distribution of mechanical press
14 brakes?

15 A. I'm familiar.

16 Q. With that part?

17 A. Yes.

18 Q. Are you familiar with the design
19 engineering process that goes into the construction
20 of a mechanical press brake?

21 A. No.

22 MR. ROBINSON: And for the record, I'll object
23 to the form of the question, that's very, very
24 broad. And I don't know what particulars, if any,

1 you're referring to.

2 MR. HARTMAN: Well, it talks about a number so
3 we know on Page 3 of my notice of corporate --

4 MR. ROBINSON: No, I'm not concerned about the
5 wording of the notice, I'm concerned about the
6 wording of the question that you just asked. You
7 just asked a general question, it's unlimited in
8 any time. As we know our press brake was
9 manufactured in '78. And I don't know -- I had a
10 problem with the way the question was asked. And I
11 don't know if the witness did or not either, but I
12 needed to preserve that objection, it was very
13 general. Perhaps he's thinking about something in
14 particular. I'm sure he has some familiarity with
15 various aspects of the design or manufacture of
16 press brakes, but perhaps he's thinking of
17 something particular that you might be concerned
18 with.

19 BY MR. HARTMAN:

20 Q. In reading engineering principles as it
21 relates to product design and manufacture, it
22 appears to me that all of the engineers and authors
23 indicate that there's a level of safety engineering
24 that goes into the design manufacture and sale of

1 each product?

2 MR. ROBINSON: There's no question yet.

3 BY MR. HARTMAN:

4 Q. There's no question. It's my
5 understanding that first you have to recognize a
6 hazard. Do you understand what recognizing a
7 hazard is?

8 MR. ROBINSON: Object to the form of the
9 question. Mr. Mase, if you can answer it, by all
10 means don't let my objections keep you from doing
11 that.

12 THE WITNESS: I believe so.

13 BY MR. HARTMAN:

14 Q. And what is a recognized hazard?

15 MR. ROBINSON: Object to the form of the
16 question.

17 THE WITNESS: Specific hazard or --

18 BY MR. HARTMAN:

19 Q. In a sense what does a recognized hazard
20 mean? If I would say we're looking for recognized
21 hazards, what would that mean to Heim?

22 MR. ROBINSON: In what setting, Mr. Hartman?

23 MR. HARTMAN: In the design and manufacture of
24 the brake press .

1 MR. ROBINSON: In what time frame?

2 MR. HARTMAN: Well, let's go back to prior to
3 the manufacture of the particular press brake
4 involved in this case.

5 MR. ROBINSON: Just so the Court is aware of
6 what I'm struggling with, there are numerous
7 aspects of designing and manufacturing a press
8 brake. And from what I understand the plaintiff's
9 allegations to be, they relate to the point of
10 operation, guarding for particular press brakes and
11 open-ended questions such as the one that has just
12 been asked I think are objectionable.

13 MR. HARTMAN: Well, I disagree. And this
14 deposition is going to take 10, 15 hours the way
15 we're going.

16 MR. ROBINSON: We don't respond to --

17 MR. HARTMAN: Please let me finish.

18 MR. ROBINSON: I apologize.

19 MR. HARTMAN: I've done a lot of product
20 liability cases, every manufacturer that I've ever
21 done a corporate designated deposition of in the 40
22 or 50 cases I've done has always understood what a
23 recognized hazard was and it appears -- it's always
24 been the same definition. I'm just wondering if

1 Heim utilizes the same definition for a recognized
2 hazard in a general analysis of when you're
3 designing a product.

4 MR. ROBINSON: And there's not a question on
5 the table at this point. And your experience with
6 product liability litigation has nothing to do with
7 the objection that I just raised. While I
8 appreciate your experience, it is meaningless for
9 purposes of the open-ended question that you just
10 asked, and that being whether or not Heim
11 recognizes hazards during the design or manufacture
12 of a press brake. If you are going to continue to
13 ask questions like that, we will not be here for 10
14 or 15 hours because we will have to stop the
15 deposition at some point. And we did not respond
16 to a threat that we're going to remain here for 10
17 or 15 hours as some effort to keep me from raising
18 objections to those types of questions.

19 MR. HARTMAN: It's not a threat. We will be
20 here until I get my information. If at any time
21 you feel you need the Court's involvement, pick up
22 the phone and call.

23 MR. ROBINSON: I can't imagine we would need
24 that.

1 BY MR. HARTMAN:

2 Q. With regard to the design process of a
3 press brake, when you're looking to manufacture a
4 press brake, does part of the process of the design
5 include trying to recognize hazards to individuals
6 who would come in contact with that press brake?

7 A. Yes.

8 Q. And once you recognize that hazard that
9 would be what is typically called in project
10 engineering terms as hazard recognition, am I
11 correct?

12 A. Yes.

13 Q. And once you recognize a hazard, does Heim
14 take the responsibility to try to either design out
15 the hazard, guard against a hazard or warn against
16 a hazard?

17 A. Yes.

18 MR. ROBINSON: I'll object to the form of the
19 question, but continue to answer if you can,
20 Mr. Mase.

21 BY MR. HARTMAN:

22 Q. Would you agree with me that as a press
23 brake designer and manufacturer, once a hazard is
24 recognized it is Heim's responsibility, if

1 possible, to design out the hazard?

2 MR. ROBINSON: I will object to the form of the
3 question.

4 BY MR. HARTMAN:

5 Q. You can answer.

6 A. Yes.

7 Q. Would you also agree that the next step in
8 a project -- a design engineer responsibility if
9 you cannot design out the hazard, then you would,
10 if possible, guard against a hazard?

11 MR. ROBINSON: Let me object. What hazards are
12 we referring to? As you know there are many
13 hazards for which entities other than the
14 manufacturer are responsible for.

15 MR. HARTMAN: That's a legal conclusion. If he
16 wants to --

17 MR. ROBINSON: Well, your questions have been
18 asking him for legal conclusions.

19 MR. HARTMAN: No, they have not.

20 MR. ROBINSON: You've asked if Heim has a
21 responsibility in general to design out or guard or
22 warn of hazards relating to the press brakes. Your
23 case centers around point of operation safety
24 devices that are the responsibility of the user on

1 the machine pursuant to ANSI, pursuant to OSHA,
2 pursuant to trade custom, pursuant to all of those.
3 So I think your questions are very misleading.

4 MR. HARTMAN: Well, Paul --

5 MR. ROBINSON: Hold on. Hold on.

6 MR. HARTMAN: Okay. Okay.

7 MR. ROBINSON: One second. I think your
8 questions are very misleading and that you will
9 attempt to use them down the road to suggest that
10 the issue in our case is encompassed in your
11 question to Mr. Mase and to Heim when, in fact, it
12 has no bearing because he's answering them in a
13 general sense.

14 MR. HARTMAN: I'm not asking him in a general
15 sense, understand that, okay, we'll get to
16 particulars as we go. Your narration of the law is
17 incorrect. If you did as much research as you did
18 talking then you'd understand that neither ANSI --

19 MR. ROBINSON: Keep your smart comments to
20 yourself -- no, not when you talk like that.
21 Please, we don't need the smart comments. If
22 you're going to take a deposition and if you're
23 going to refer to my objections in that manner,
24 then we're going to stop the deposition,

1 Mr. Hartman.

2 MR. HARTMAN: Good. Stop it any time you want
3 to.

4 MR. ROBINSON: I will tell you when I'm going
5 to. If you keep acting like that without any
6 purpose whatsoever other than to be smart, then we
7 will stop it. And I'll be sure to let you know
8 when I'm doing that.

9 MR. HARTMAN: Paul, all you're doing is
10 obstructing the record and trying to coach your
11 witness. You should spend the time preparing your
12 witness outside of the deposition. I'm going to
13 ask my questions as I see fit. I'm going to
14 conduct myself as I see fit. If at any time you
15 feel it necessary to interject with the Court, pull
16 your client and talk to him, make this record as
17 long as you want it or stop the deposition, you're
18 free to do so. I've traveled here at my expense,
19 if you stop the deposition the next will be at your
20 expense. It's that easy.

21 MR. ROBINSON: It's really not that easy, and
22 here's the point. When I make an objection on
23 behalf of my client, just move on with your
24 question. You'll get an answer if Mr. Mase can

1 answer it. But we don't need you to direct your
2 sarcasm to my objection. That's the problem that I
3 had with your response to my objection.

4 MR. HARTMAN: Unfortunately the record doesn't
5 contain the tone of your voice or your demeanor so
6 that they would see that it's a two-way street
7 here.

8 MR. ROBINSON: I don't follow that at all
9 either.

10 MR. HARTMAN: That's because you choose not to.

11 MR. ROBINSON: Pardon me.

12 MR. HARTMAN: It's because you choose not to.

13 MR. ROBINSON: Okay. Once again, we have an
14 unprofessional comment, completely unnecessary,
15 being made during the deposition. I'm going to try
16 to point them out as we go along so that whenever
17 we do cease the deposition, we know why.

18 MR. HARTMAN: You have no right to cease the
19 deposition.

20 MR. ROBINSON: I do when you're acting in an
21 obdurate and harassing manner to me and my client.

22 MR. HARTMAN: I'm not.

23 MR. ROBINSON: You can say that you're not and
24 I can say that you are and then we can disagree and

1 when we stop the deposition if it continues, the
2 Court will decide.

3 MR. HARTMAN: Do what you got to do, Paul.

4 BY MR. HARTMAN:

5 Q. You've been appointed by Heim to talk
6 about the design and manufacturing process of this
7 particular press brake. And my Notice of Corporate
8 Designated Deposition talks about other press
9 brakes on similar machines. What I need to know is
10 when you're designing the machine, we've already
11 established that you attempt to recognize the
12 hazards, am I correct?

13 A. Correct.

14 Q. Once you recognize the hazards, you
15 attempt to eliminate the hazards, am I correct?

16 MR. ROBINSON: Same objections.

17 BY MR. HARTMAN:

18 Q. Am I correct?

19 A. Correct.

20 Q. If you can't eliminate them, then you
21 would try to protect the operator or person that's
22 interfacing with your machines from the hazard, am
23 I correct?

24 MR. ROBINSON: Objection to the form.

1 THE WITNESS: Correct.

2 BY MR. HARTMAN:

3 Q. And then if you can't design them out or
4 guard against them, then the proper process for
5 manufacturing and designing a product would be to
6 warn the user of the danger, am I correct?

7 MR. ROBINSON: Objection to the form.

8 THE WITNESS: I believe that to be the case.

9 BY MR. HARTMAN:

10 Q. Okay. Does Heim use that analysis when it
11 manufactured the brake press involved in the
12 accident with Tina Lindquist?

13 A. I believe so.

14 Q. Now, with regard to the point protection
15 and point of operation. At the time Heim
16 manufactured -- strike that.

17 Do I have to --

18 Do you know what brake press I'm talking
19 about that was involved in the Tina Lindquist
20 accident?

21 A. Yes.

22 Q. Would you describe it for me? What's the
23 model number?

24 A. It's a 70-6, which is a 70 ton 6-foot

1 press brake, mechanical.

2 Q. And when was it sold?

3 A. I believe it was sold in 1978.

4 Q. Okay. How long had that press brake
5 been -- how many years prior to '78 had that press
6 brake been offered for sale by Heim?

7 MR. ROBINSON: The specific press brake ?

8 MR. HARTMAN: The model.

9 THE WITNESS: I'm not absolutely sure.

10 BY MR. HARTMAN:

11 Q. Can you give me an estimate?

12 A. My estimate would be 1968.

13 Q. Okay. And do you know when that model was
14 discontinued, the 70-6?

15 A. It has not been discontinued.

16 Q. It's still being used?

17 A. That's correct.

18 Q. I'm sorry, still being manufactured?

19 A. Yes.

20 Q. Is the 70-6 press brake part of a family
21 of press brakes, otherwise is there like a 60-6, is
22 there a family of similar press brakes except a
23 different size and width?

24 MR. ROBINSON: I'll object to the form of the

1 question, you've just added similar and then you've
2 also added a difference in size and width. I don't
3 know what you mean by family.

4 BY MR. HARTMAN:

5 Q. Do you know what family press brakes would
6 be?

7 A. I believe I know where you're going with
8 what your question is.

9 Q. What would you call press brakes that are
10 essentially the same differing in size but
11 different in size?

12 A. I would call them a series.

13 Q. Okay. What sizes are in the series of
14 press brakes that the 70-6 belongs to?

15 A. They vary in lengths, such as, 4 foot, 6
16 foot, 8 foot, 10 foot.

17 Q. They do not vary in tonnage?

18 A. No.

19 MR. ROBINSON: What were the other ones, 4
20 foot, 6 foot, 10 foot.

21 THE WITNESS: Vary in length. 8 foot.

22 BY MR. HARTMAN:

23 Q. The 70 series would be 70 tonnage
24 different sizes of bed, is that what you --

1 A. That's correct. 70 ton would designate
2 the tonnage, the dash 6 would designate the length.

3 Q. The length of what?

4 A. The bed.

5 Q. That's what I said.

6 A. I'm sorry.

7 Q. We're -- okay. Is there like on 80
8 series, a 90 series, a 100 series of press brakes?

9 A. Yes.

10 Q. And would they differ -- would the series
11 differ only in that there are different bed sizes
12 as well when you talk about the 80, 90, 100?

13 A. The change comes in tonnage and in bed
14 length.

15 Q. Okay. What's the lowest amount of tonnage
16 of a press brake that would be similar to the 70
17 series?

18 MR. ROBINSON: I'll object to the question and
19 your confusion of the word similar.

20 THE WITNESS: We build a 30-ton series, a
21 45-ton series, 70-ton series, 100-ton series.

22 BY MR. HARTMAN:

23 Q. Is 100-ton series the highest tonnage you
24 go?

1 A. No.

2 Q. How far in?

3 A. 200.

4 Q. 200.

5 And I have to ask this because I don't
6 have the literature. And what I'm trying to get at
7 is that basically the press brake, the 70-6, has
8 certain characteristics to it, in looks particular.
9 When you have different tonnage and different bed
10 lengths and different series, is it basically the
11 same application except it's heavier tonnage and
12 wider bed or are there differences in these things?

13 MR. ROBINSON: I'll object to the -- I didn't
14 mean to cut you off. I'll object to the form of
15 the question. I don't know what you mean by
16 application and then you made it compound in the
17 end.

18 BY MR. HARTMAN:

19 Q. Okay. Explain to me the differences
20 between a 32 to 200 ton press brakes other than the
21 fact that they're heavier and wider?

22 A. Basically that is the difference, the
23 tonnage goes up -- it's just plain physics, size is
24 the difference.

1 Q. The machine gets bigger but it still looks
2 the same except bigger one?

3 A. Correct.

4 Q. Or smaller when it's smaller tonnage?

5 A. Correct.

6 Q. It's a narrower bed if it's shorter, it's
7 wider if it's wider?

8 A. Correct.

9 Q. Okay. Now, how long -- is there a
10 particular name for the press brakes that go from
11 32 to 200 ton, this group of series, or is it a
12 particular model type other than a 70-6, is there a
13 family name that would include this whole group of
14 press brakes or is it just called press brakes?

15 MR. ROBINSON: And I'll object. I think you
16 just included in your series tonnages outside of
17 the 70 ton. I thought Mr. Mase said that the
18 series that would encompass the 70-6 model would be
19 the 70 ton but beds of different lengths.

20 MR. HARTMAN: Right.

21 BY MR. HARTMAN:

22 Q. And what I'm saying is is there a name
23 that you would use to include all of the series of
24 tonnages and lengths of the press brakes that

1 you've just described?

2 A. We would use a generic name, press brake.

3 Q. There we go. Okay. And you've been
4 manufacturing press brakes similar to this --
5 strike that.

6 When I say similar I'm talking about the
7 aggregate of all of the series as far as the
8 similarity, okay?

9 MR. ROBINSON: What do you mean by that?

10 BY MR. HARTMAN:

11 Q. That they differ in tonnage, they differ
12 in bed length, but they don't differ in the basic
13 structure of them beyond tonnage and bed length.
14 Do you understand that?

15 A. Yes.

16 Q. It's not like you have a completely new
17 design, do you understand that?

18 A. Correct.

19 Q. So how long have you been making press
20 brakes of the series similar to the 70-6?

21 A. Since 1967, '68.

22 Q. Prior to '67 or '68, did Heim make press
23 brakes of a different design than the 70-6 series?

24 A. No.

1 Q. So Heim just started making press brakes
2 in 1967 or '68, correct?

3 A. Approximately.

4 Q. Now, Mr. Robinson has indicated to me that
5 Heim has made approximately 50,000 mechanical
6 presses and press brakes throughout its history, is
7 that correct?

8 MR. ROBINSON: Is it correct that I've
9 indicated that to you?

10 BY MR. HARTMAN:

11 Q. Is it correct that Heim has made 50,000
12 presses and press brakes?

13 MR. ROBINSON: If you know.

14 THE WITNESS: Can I have a minute?

15 MR. ROBINSON: We can't have a conversation in
16 front of Mr. Hartman.

17 (Whereupon, a short break
18 was taken.)

19 BY MR. HARTMAN:

20 Q. When I ask you questions and I use the
21 term similar with regard to the different series of
22 press brakes, what I'm trying to ascertain is that,
23 is there anything from a point of operation
24 protection that would be different in any of the

1 models of press brakes you made from '67 to the
2 present of the different series that you've
3 identified?

4 MR. ROBINSON: Well, I'll object to the form of
5 the question.

6 MR. HARTMAN: That's not a question, it's a
7 statement.

8 MR. ROBINSON: Regardless, your point of
9 operation protection is the problem I had with the
10 introductory statement to your question that
11 perhaps is coming.

12 BY MR. HARTMAN:

13 Q. Okay. Do you see the series from was it
14 32 ton to 200 ton of press brakes as being similar?

15 MR. ROBINSON: And I'll object to the form of
16 the question. You can answer.

17 THE WITNESS: Yes.

18 BY MR. HARTMAN:

19 Q. Describe how they're similar.

20 A. They're similar in the design in which
21 they only would vary in length and in capacity due
22 to size to deliver a force.

23 Q. Okay. Thank you.

24 Your attorney during our break has

1 indicated to me that you've had the opportunity to
2 review all of the types of press brakes from '67 to
3 1980, is that correct?

4 MR. ROBINSON: No, that's not correct. I had
5 told you during the break that I believe, and you
6 would have to ask Mr. Mase, that during his review
7 of the records of Heim, it included, I think, all
8 press brakes from 1972 to '80 as ordered by the
9 Court. But I think Mr. Mase said he went back to
10 1970 in his earlier comment today on the record.

11 BY MR. HARTMAN:

12 Q. When is it?

13 A. I went back in the file to approximately
14 1970 through approximately 1980.

15 Q. Okay. And Heim has continued to make --
16 strike that.

17 When I use the term press brakes in a
18 plural sense, the press brakes, I'm talking about
19 all of the different series that you've just
20 described that vary only in tonnage and bed length,
21 okay?

22 A. Okay.

23 Q. And Heim continues to make those press
24 brakes today?

1 MR. ROBINSON: Which press brakes?

2 MR. HARTMAN: I just asked him.

3 MR. ROBINSON: You had asked him if they still
4 make the 70-6, and the answer was, yes. And now
5 you said all of them. I didn't hear that answer, I
6 just --

7 BY MR. HARTMAN:

8 Q. Does Heim continue to make all of the
9 press brakes today?

10 A. Yes.

11 Q. From the time -- from 1970 to 1980, did
12 Heim make any changes to the press brakes as it
13 relates to point of operation protection?

14 MR. ROBINSON: I will object to the form of the
15 question. I don't believe there's been any
16 testimony that Heim provides point of operation
17 protection, and I'm not sure how you're using that
18 term, on its press brakes.

19 BY MR. HARTMAN:

20 Q. Okay. Do you understand what point of
21 operation protection is on a press brake?

22 A. Yes.

23 MR. ROBINSON: Yeah. And just for the Court's
24 edification his understanding may be different than

1 yours, may be different than mine.

2 MR. HARTMAN: I'm going to ask that you define
3 it.

4 MR. ROBINSON: That's the problem I have with
5 that.

6 BY MR. HARTMAN:

7 Q. With regard to press brakes, what is
8 Heim's understanding of point of operation
9 protection?

10 A. I believe it to be the actuation device
11 for the press.

12 Q. And what is the actuation device?

13 A. It could be the foot switch. It could be
14 the palm button station.

15 Q. Other than the brake presses we're talking
16 about that are similar, they differ only in
17 capacity and bed length, does Heim make any other
18 types of brake presses?

19 MR. ROBINSON: Object to the form of the
20 question. You can answer it again if you can,
21 Mr. Mase.

22 THE WITNESS: I understand your question is
23 going back to the models we talked about from the
24 30 ton to the 200 ton.

1 BY MR. HARTMAN:

2 Q. Other than those that are all basically
3 similar in design except for different capacities,
4 is there any other type of brake press made by
5 Heim?

6 A. No.

7 Q. I want to ask you -- strike that.
8 Who -- what is Roselle?

9 A. Roselle is --

10 Q. Go ahead.

11 A. Roselle is a trademark name used under the
12 Heim group for punch presses that were built from 5
13 ton through 1,000 ton in capacity.

14 Q. Okay. You said something earlier about an
15 OMB press or was it an OMB press?

16 MR. ROBINSON: What's the question.

17 THE WITNESS: OBS.

18 BY MR. HARTMAN:

19 Q. What is an OBS press?

20 A. OBS stands for open back stationary, it
21 references to frame model. It's a punch press.

22 Q. Is there an OBI?

23 A. Correct.

24 Q. And what is that?

1 A. Open backing climbable.

2 Q. What type of press is that?

3 A. It's a punch press that inclines, that's
4 what --

5 Q. Could it be configured to do the same type
6 of forming that a brake press does?

7 MR. ROBINSON: I'll object to the form of the
8 question. I don't know what kind of forming you're
9 referring to.

10 THE WITNESS: I'd like to answer this question.

11 MR. ROBINSON: Answer all of them, yes,
12 Mr. Mase.

13 THE WITNESS: The -- my belief is looking at
14 two separate punch press is primarily used for
15 stamping and brake press is primarily used for
16 bending under the normal circumstances of the
17 businesses as I understand it.

18 BY MR. HARTMAN:

19 Q. Okay. Let's talk about punch presses that
20 Heim manufactured in the period of 1970 to 1980.

21 Other than the point of operation
22 protection that you have identified as meaning to
23 you palm buttons or foot switches, exclude those
24 from anything, was there any type of point of

1 operation protection provided by Heim with regard
2 to those types of machines?

3 MR. ROBINSON: And if I may object, and the
4 Court has issued a ruling on these questions that
5 were posed in the interrogatories precluding the
6 plaintiff from wasting effort and time in getting
7 into products other than press brakes. And now
8 apparently the decision has been made by
9 plaintiff's counsel to reassess that ruling and now
10 attempt to obtain this information in a deposition
11 format as a result of him being precluded from
12 obtaining that unnecessary and irrelevant
13 information in an interrogatory format.

14 MR. HARTMAN: Okay. My position is is that the
15 Court ruled that I was to get information from '70
16 to 1980 and was to be provided by Mr. Robinson, and
17 Mr. Robinson's argument was that based on the
18 recordkeeping of Heim that my earlier request would
19 be unduly burdensome and cost prohibitive. The
20 Court specifically indicated that during the
21 deposition that unless it was unduly burdensome or
22 cost prohibitive, the Court would revisit that
23 situation if Mr. Robinson and I had a problem with
24 regard to his witness answering questions.

1 If this witness indicates that for him to
2 sit here and answer what he knows is cost
3 prohibitive and unduly burdensome then maybe we
4 should contact the Court. I would like to know
5 what the witness knows.

6 BY MR. HARTMAN:

7 Q. So my question is, sir, is that with
8 regard to punch presses from 1970 to 1980, was
9 there any type of point of operation protection
10 offered by Heim with those punch presses other than
11 the two palm switch and the foot pedal?

12 A. I do not know. I didn't research those
13 files.

14 Q. Did you sell punch presses during that
15 period of time as the sales manager?

16 A. Between?

17 Q. 1970 and 1980.

18 A. Not for the Heim Group.

19 Q. Well, you worked from 1967 to 1981, what
20 was your job with Heim?

21 A. Say that again for me.

22 Q. You indicated earlier that you worked for
23 Heim -- I'm sorry, 1981 through 1984 is that
24 when --

1 MR. ROBINSON: No.

2 THE WITNESS: No, it was Roselle.

3 BY MR. HARTMAN:

4 Q. '84 through 91.

5 MR. ROBINSON: '81 through '91 and 2001 to the
6 present. He was with Clearing from '67 to '81.

7 MR. HARTMAN: Got it.

8 BY MR. HARTMAN:

9 Q. Okay. From 1984 to 1991, with regard to
10 punch presses, other than foot controls or two palm
11 switches, did Heim make available any other type of
12 point of operation protection for punch presses?

13 MR. ROBINSON: I'll object to the form of the
14 question now we're talking from 1984 to 1991 in the
15 time frame that the Court eliminated from the
16 equation. And we're also talking about punch
17 presses.

18 MR. HARTMAN: I understand.

19 MR. ROBINSON: And also I have a problem with
20 the term make available. But with all of that,
21 Mr. Mase, if you can answer the question, by all
22 means, please do.

23 THE WITNESS: Between 1984 and '91 offering I
24 believe at a customer's request that we quoted a

1 point of operation somewhere in that time frame.

2 BY MR. HARTMAN:

3 Q. Okay. Do you recall what types of point
4 of operation protection you would offer at a
5 customer's request for sale with regard to punch
6 presses?

7 MR. ROBINSON: In 1984 to 1991?

8 MR. HARTMAN: Yes.

9 MR. ROBINSON: With punch presses.

10 MR. HARTMAN: Right.

11 THE WITNESS: I would believe it would be a
12 light curtain.

13 BY MR. HARTMAN:

14 Q. From 1984 through 1991 other than point of
15 operation protection such as a palm switch or a
16 foot pedal, did Heim make available for purchase
17 along with its brake presses other types of point
18 of operation protection?

19 MR. ROBINSON: I'll object to the form of the
20 question as asked, again, make available when
21 Mr. Mase has specifically indicated at the request
22 of a customer and now we're going back to the -- to
23 a more general statement in my opinion to possibly
24 trip up the witness.

1 THE WITNESS: Between 1984 and '91 again?

2 BY MR. HARTMAN:

3 Q. Yes.

4 A. I do not recall a specific inquiry for a
5 light curtain for a press brake.

6 Q. Okay. When you worked for Clearing, what
7 types of machines did you sell?

8 A. We sold primarily large mechanical punch
9 presses.

10 Q. Did you sell brake presses?

11 A. No.

12 Q. When you worked for -- what is it?

13 A. CNB.

14 Q. It's pretty bad when you can't read your
15 own writing.

16 A. When I worked for CNB Niagra had a press
17 brake series.

18 Q. Did you sell them?

19 A. I wasn't involved in sales with that
20 company.

21 Q. What were you involved in?

22 A. Aftermarket sales.

23 Q. What is aftermarket sales?

24 A. Parts.

1 Q. Do you know the negotiations that took
2 place with Heim with regard to the sale of this
3 particular machine?

4 A. No.

5 MR. ROBINSON: Just for clarification, are you
6 talking about from personal knowledge or from his
7 review of the sales documents that we've provided?

8 BY MR. HARTMAN:

9 Q. Well, A, personal knowledge.

10 A. No.

11 Q. Reviewing the sales documents, do you know
12 how the purchasing process took place?

13 A. I believe I do.

14 Q. Okay. Would you please describe that for
15 me?

16 A. I believe from reviewing the file it was
17 sold through a distributor through an end user
18 known as Afco.

19 MR. ROBINSON: Afco.

20 THE WITNESS: Afco.

21 BY MR. HARTMAN:

22 Q. Do you know what Afco was going to do with
23 the press?

24 A. No.